

SENATE BILL REPORT

E2SHB 1618

As of April 6, 2009

Title: An act relating to community and surplus schools.

Brief Description: Concerning community and surplus schools.

Sponsors: House Committee on General Government Appropriations (originally sponsored by Representatives White, Nelson, Hudgins, Kenney, Sullivan, Carlyle, Hasegawa, Santos, Green, Miloscia, Orwall, Pedersen, Cody, Dickerson, Lias, Kelley, Pettigrew, Goodman, Simpson, Morrell and Ormsby).

Brief History: Passed House: 3/06/09, 60-35.

Committee Activity: Government Operations & Elections: 3/24/09 [DPA].

Ways & Means:

SENATE COMMITTEE ON GOVERNMENT OPERATIONS & ELECTIONS

Majority Report: Do pass as amended.

Signed by Senators Fairley, Chair; Oemig, Vice Chair; McDermott, Pridemore and Swecker.

Staff: Edward Redmond (786-7471)

SENATE COMMITTEE ON WAYS & MEANS

Staff: Brian Sims (786-7431)

Background: Washington has traditionally provided capital funding to local governments and other entities through a variety of competitive grant programs. Examples of grant programs funded through the Capital Budget and administered by the Department of Community, Trade and Economic Development (DCTED) include the Building for the Arts program, the Building Communities Fund program, and the Youth Recreational Facilities (YRF) program.

The YRF program was created by the Legislature in 2003 to provide grants to nonprofit, community-based organizations to defray up to 25 percent of the eligible capital costs for the acquisition, major construction, or renovation of nonresidential projects that provide a youth

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recreation opportunity that is supported by a social service or educational component at the same location.

School district boards are authorized in statute to make full use of school district facilities by permitting the rental, lease, or occasional use of the district's surplus property to any person, corporation, or government entity for profit or nonprofit, commercial or noncommercial purposes, so long as the use does not interfere with conduct of the district's educational program and related activities. School district boards are also authorized to sell district property that is no longer required for school purposes. Proceeds from sales, rentals, or leases must be deposited into the school district's debt service fund and/or capital projects fund, except that monies expended for the maintenance, utility, and insurance costs associated with the lease or rental of such property must be deposited into the district's general fund. Sale proceeds may be used for costs associated with the sale of surplus school property.

A public school district with student enrollment of less than 2,000 pupils is considered a second class school district. School boards of second class districts may provide for the free, comfortable, and convenient use of school property for meetings, discussion, study, improvement, and other community purposes, especially in matters pertaining to agriculture, household economies, home industries, good roads, and community vocations and industries.

School districts are eligible for a Study and Survey grant every six years. The Study and Survey is an overall analysis of the school district's facilities, educational programs and plans, student population projections, capital finance and operating capabilities, and identification of needs for new construction, modernization, or replacement of facilities. A school district must complete a Study and Survey in order to be considered for state assistance in providing school plant facilities.

Summary of Bill (Recommended Amendments): The DCTED is directed to establish and conduct a statewide competitive capital grant solicitation and evaluation process to assist eligible entities in acquiring, constructing, rehabilitating, or improving facilities, including surplus schools, to be used for nonresidential coordinated services for children and families. The DCTED must evaluate and rank applications in consultation with an independent advisory board using objective criteria and establish a tiered system to determine the amount of matching funds required from a grantee based on financial need, taking into consideration community purpose and the ability of the applicant to obtain matching funds. The DCTED must submit a prioritized list annually to the Governor and the Legislature in the DCTED's capital budget request beginning with the 2011-13 biennium. In recommending projects for funding, the DCTED may not set a monetary limit on funding requests or require that state funds be the last to be spent on a project.

Eligible entities that may apply for grant funds through the program include public school districts, local governments, nonprofit organizations, nonprofit early learning providers, and tribal governments.

Qualified services include, but are not limited to early childhood education; remedial education and academic enrichment activities; programs that promote parental involvement; leadership, and education activities including family literacy; youth development programs;

programs that assist students who have been truant, suspended, or expelled; child care services; nutrition services; job training and career counseling services; community service opportunities; with respect to surplus schools, any nonprofit, community use or purpose; and primary health, dental care, and mental health prevention and treatment services.

Applicants must submit a comprehensive plan to the DCTED that includes the following: (1) a list of partner entities and the qualified services to be provided by each entity; (2) a memorandum of understanding between the applicant and its partner entities describing the role each entity will assume; (3) plans for joint utilization and maintenance of the facility, including liability considerations; (4) the student, family, and community population to be served by the project; (5) existing qualified services available at each school to be served and in the community involved; and (6) an examination of capital and operating funds that applicants intend to apply to the project and qualified services by fund source. Applicants must also demonstrate that the proposed project is ready to proceed, will make timely use of the funds, and that state funding will accomplish a discrete, usable phase of the project.

Any grant funds used for the acquisition of surplus school facilities must be used by the local school board disposing of such property for renovation, replacement, or new construction of school facilities within the district. Sales of surplus schools under the Community Schools Program (Program) are exempt from the procedural requirements for districts' sales of schools generally.

For grants authorized under the Program, the DCTED may not sign contracts or obligate funds until the Legislature has approved a specific list of projects. The DCTED must also require that capital improvements be held by the grantee for a specified period of time appropriate to the amount of the grant and that the facilities must be used for the express purposes of the grant. Grantees found to be out of compliance with the terms of the grant must repay to the state General Fund the principal amount plus interest calculated at the rate of interest on state bonds issued most closely to the date of the grant authorization.

The YRF program is amended to give priority consideration to projects that include cooperative partnerships or joint use agreements for facilities shared with public school districts, local governments, early learning providers, post-secondary institutions, and tribal governments.

As part of the Study and Survey process, school districts that apply for state funding assistance in providing school plant facilities must include an inventory of school district facilities that are jointly used with other entities, or that could potentially be used for other community purposes. School districts must submit a long-range plan for future community use of school buildings.

The Community Schools Program is exempted from complying with school district procedural requirements pertaining to the sale of property.

The bill is null and void unless funded in the budget.

EFFECT OF CHANGES MADE BY GOVERNMENT OPERATIONS & ELECTIONS COMMITTEE (Recommended Amendments): Adds a null and void clause. This act will

take effect only if specific funding is provided by June 30, 2009, in the Omnibus Appropriations Act or the Capital Appropriations Act.

Appropriation: Yes.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony (Government Operations & Elections): PRO: The intent when the bill passed the House was that the program's cost would be absorbed within existing funds of DCTED. DCTED currently manages and facilitates a number of grant related programs. It is believed that this program could be added as one of the various programs that DCTED manages. Long term funding of the program would be subject to future capital appropriations if approved by the Legislature. All this bill does is set up the infrastructure to come back for the 2011-13 biennium budget with a list of projects that might be eligible for the grant. Seattle Public Schools support this bill. Senator McDermott has sponsored this bill in previous sessions. This program has been modeled in Seattle and we have had success transferring previously closed buildings to nonprofits. We think Seattle's program is a good model for this bill.

Persons Testifying (Government Operations & Elections): PRO: Representative White, prime sponsor; Clifford Traisman, Seattle Public Schools.